

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

MARY SEYMORE,

Civil Action No.: 17-CV-03718-JNE-FLN

Plaintiff,

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**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

NOW COMES Plaintiff, Mary Seymore, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1387], and by and through undersigned counsel submits this, her Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

**FACTS AND ARGUMENT**

In August 2015, Ms. Mary Seymore contacted undersigned counsel regarding an infection and subsequent treatment that she experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery. On August 14, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

Efforts to have Ms. Seymore complete the Plaintiff Fact Sheet have been complicated by the inability to contact Plaintiff. While counsel has diligently continued their attempts to contact Ms. Seymore for several months, those efforts have not been successful to date. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim. Counsel for Plaintiff believe that additional time could allow them to reestablish contact with Plaintiff and complete the Plaintiff Fact Sheet.

### **CONCLUSION**

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Ms. Seymore be given an additional ninety (90) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: August 9, 2018

KENNEDY HODGES, LLP

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